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ORDINANCE NO. 48-548

AN ORDINANCE AMENDING SECTIONS 3.11.020, 3.11.065, 3.11.150, 3.30.050, 3.30.070, 3.30.080, 4.04.040, 4.04.045, 4.12.195 AND 4.16.120 AND CREATING SECTIONS 3.30.180 AND 3.30.190 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ENTERTAINMENT ESTABLISHMENTS AND COMMUNITY EVENTS AND REPEALING THE ORIGINALS OF SECTIONS 3.11.020, 3.11.065, 3.11.150, 3.30.050, 3.30.080, 4.04.040, 4.04.045, 4.12.195 AND 4.16.120 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.11.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“**Definitions.** (a) *'Community event'* means:

(1) an outdoor event on City-owned property with an expected attendance of fifty (50) or more persons, organized for a particular and limited purpose and time;

(2) outdoor events on private property or which occur in City of Wichita parks with an expected attendance of two hundred fifty (250) or more people, organized for a particular and limited purpose and time.

Such events shall include, but not be limited to: fun runs, roadway foot races, fundraising walks, bikeathons, carnivals, festivals, community celebrations, shows, exhibitions, circuses and fairs. Such term shall not include events, other than fun runs or races, occurring solely on sidewalks or public rights-of-way immediately adjacent to public streets.

(b) Exceptions. The provisions of this chapter shall not apply to:

1. Community events conducted by the City of Wichita.
2. Events consisting only of a parade, whether regulated or exempted by the provisions of Section 3.13.020 of the Code of the City of Wichita.
3. Funeral processions as regulated by Chapter 3.74 of the Code of the City of Wichita.
4. Outdoor events occurring at amusement parks licensed pursuant to Chapter 3.20 of the Code of the City of Wichita.
5. Social or political protests, rallies, gatherings, assemblies, or vigils occurring on public property, which consist solely of the displaying of signs or banners, singing and the delivering of speeches.
6. Events, by a religious institution, conducted entirely on property owned or leased by a religious institution, when no extraordinary police services are required. Such institution must be organized under Internal Revenue Code 501(c)(3).

7. Outdoor events held at a members-only facility where no extraordinary police services are required.
8. Events held entirely inside the Lawrence-Dumont Stadium.
9. Farmers Markets licensed pursuant to Chapter 3.94 of the Code of the City of Wichita.
10. Auctions as regulated by Chapter 3.36 of the Code of the City of Wichita.
11. Garage or Miscellaneous sales as regulated by Chapter 3.44 of the Code of the City of Wichita.
12. Performances of Street Performers as defined and regulated by Chapter 10.36 of the Code of the City of Wichita.
13. Sporting events, contests, practices or tournaments occurring at sport complexes or playing fields where the scope of the event is limited to the sporting event for which the property is designed to be utilized.
14. Events held at a private residence or in a residential neighborhood where no admission is charged, and no extraordinary police services are required.
15. Outdoor events conducted entirely on the property of public or private schools, colleges or universities, where no extraordinary police services are required.
16. Event held entirely on the grounds of Botanica, the Wichita Gardens, CityArts, Exploration Place, Kansas Aviation Museum, Kansas

Firefighters Museum, Mid-America All Indian Center, Old Cowtown Museum, Wichita Area Treatment Education and Remediation Center (WATER), Wichita-Sedgwick County Historical Museum, Wichita Art Museum, and the Wichita Boathouse/Kansas Sports Hall of Fame.

(c) *'Community Event Coordinator'* means the Manager of Arts and Cultural Services or his or her designee.

(d) *'Community Event Promoter'* means the person who is directly responsible for organizing and/or conducting the event.

(e) *'Extraordinary police services'* means responsive police services which are in addition to and in excess of the normal police services provided to the location or off-site as a direct result of the event.

(f) *'Person'* shall mean a natural person or a legal entity such as, but not limited to an individual, firm, association, joint stock company, partnership or corporation.

(g) *'Street'* or *'highway'* means the entire width between property lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic. Where the word 'highway' or the word 'street' is used in this title, it means street, avenue, boulevard, thoroughfare, trafficway, alley and any other public way for vehicular travel by whatever name unless the context clearly indicates otherwise.

(h) *'Temporary Entertainment District'* means a defined area, which includes city streets and public sidewalks, on which the City Council has authorized the sale, possession or consumption of alcoholic liquor for a specified period of

time, during a community event which has been properly licensed under this chapter.”

SECTION 2. Section 3.11.065 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Regulations for Alcohol Consumption or Sale at Community Events
or in Temporary Entertainment Districts.**

(a) Any community event promoter, who desires to sell or allow the consumption of alcoholic liquor or cereal malt beverage at a community event, shall submit an application to the Community Event Coordinator for the sale or consumption of such alcoholic liquor or cereal malt beverages at such community event or in a temporary entertainment district.

(b) Such written application must be made on a form provided by the Community Event Coordinator. The application must be submitted to the Community Event Coordinator not less than forty –five (45) days before the date of the proposed community event or temporary entertainment district.

(c) The written application shall contain the following information:

- (1) The name and address of the event promoter;
- (2) The dates and times when alcoholic liquor or cereal malt beverages will be served at such event;
- (3) For temporary entertainment districts, a copy of the temporary permit issued by the State of Kansas, pursuant to K.S.A. 41-2645 and the City of Wichita, pursuant to Section 4.16.170 of the Code of

the City of Wichita for the sale of alcoholic liquor at such event, or written documentation that an application is pending for such temporary permit;

(4) A copy of the caterer's license issued by the State of Kansas for any individual responsible for the sale of alcoholic liquor at such event;

(5) A detailed security plan;

(6) A plan as to how the event promoter will prevent the off-premises consumption of alcohol and the consumption of alcohol by minors;

(7) A detailed site map indicating:

(a) Entry and exit points to the event venue(s);

(b) Description of the signage, barriers or maps which will be used to designate the area in which alcoholic liquor or cereal malt beverages may be consumed;

(c) The number and exact locations of all alcoholic liquor or cereal malt beverage sale/distribution booths;

(d) The location of any licensed drinking establishments that desire to participate in the temporary entertainment district, and a designation of the area of the licensed premises of such drinking establishment(s) which have been extended into the temporary entertainment district.

(8) Whether entry to the event or temporary entertainment district is restricted to invited guests, or open to the public.

(9) The type of alcoholic liquor or cereal malt beverage to be sold or dispensed and the means or method which will be used to sell, dispense or distribute the alcohol to event attendees;

(10) The identity of the on-site supervisor of the alcoholic liquor or cereal malt beverage service;

(11) The name, address and licensee of any drinking establishment, which is adjacent to the event and which has extended its licensed premises into the temporary entertainment district if such event is occurring on the public streets and sidewalks of the City of Wichita. Only those drinking establishments listed on the community event application will be granted approval by the City Council to utilize the city streets, sidewalks or other public property for the extension of their licensed premises;

(12) The name and address of any adjacent businesses which are to be included in the event area or temporary entertainment district;

(13) A list of streets and or street rights-of-way to be closed to motor vehicle traffic for such event or temporary entertainment district and the dates and times for such street closures;

(14) If signs are to be used to designate areas where alcoholic liquor or cereal malt beverage may be consumed, a diagram showing the number, size and location of such signs.

(d) The City Council shall review written applications for temporary entertainment districts and may, by resolution, authorize the possession, sale

and/or consumption of alcoholic liquor on streets which have been closed to motor vehicle traffic and sidewalks in the designated temporary entertainment district. In determining if approval should be given, the City Council shall consider those factors set forth in Section 3.11.080 of the Code of the City of Wichita, Kansas.

(e) Approval by the City Council, pursuant to this section, shall not be required for community events held on locations exempted from the prohibitions of consuming alcohol in public, as designated by Section 4.04.045 of the Code of the City of Wichita or those events which occur on private property.

(f) Alcoholic liquor or cereal malt beverages served at a community event or in a temporary entertainment district are to be served in distinctively different containers than those in which non-alcoholic drinks are served.

(g) Alcoholic liquor or cereal malt beverages served at a community event or in a temporary entertainment district are not to be sold or served in pitchers, buckets or carafes and no person is to be served or allowed to purchase more than two alcoholic drinks at the same time.

(h) Alcoholic liquor or cereal malt beverages shall not be served, sold or consumed in glass bottles, glass containers or glass vessels at a community event or in a temporary entertainment district.

(i) If multiple alcoholic liquor or cereal malt beverage vendors or licensees are participating in a community event or temporary entertainment district, each vendor or licensee must serve their alcoholic liquor or cereal malt beverage in distinctive containers which identify such vendor or licensee.

(j) It shall be unlawful for any person, at a community event or in a temporary entertainment district, to sell, serve or allow the consumption of alcoholic liquor or cereal malt beverages to or by any individual who is not wearing a wristband or other identifying device to indicate that the individual is the legal age for consumption of alcoholic liquor or cereal malt beverage.

(k) It shall be unlawful for any person to possess or consume alcoholic liquor or cereal malt beverages at a community event or in a temporary entertainment district unless such person is wearing a wristband to indicate that such individual is the legal age for consumption of alcoholic liquor or cereal malt beverage.

(l) It shall be unlawful for any person to distribute, sell or allow the consumption of any alcoholic liquor on the streets or sidewalks within a temporary entertainment district without obtaining the approval of the City Council and any and all necessary state and local permits for the sale of such alcoholic liquor.”

SECTION 3. Section 3.11.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“**Street closures.** (a) Any street closures requested by a licensee or which are necessary as part of a community event or temporary entertainment district application must be approved by the City Council prior to the issuance of the Community Event Permit by the Community Events Coordinator.

(b) The following requirements must be met before a street closure is approved:

1. The applicant must submit to the community events coordinator a written request for the street closure at least forty-five (45) days prior to the date of the proposed street closure.

2. The applicant is responsible for attempting to secure the cooperation of all property owners/residents affected by the street closing and will provide proof that all property owners/residents have been notified by attaching to the application a statement signed by all affected property owners/resident listing the name, address and telephone number of the person contacted expressing their approval or disapproval of the street closure. Failure to notify any property owners/residents may result in the denial of the application or require a change in the scheduled closing date.

3. The applicant must be the responsible party or event promoter for the event.

4. The applicant will provide a sketch of the street area indicating the area to be closed and the location of all properties adjacent to the area being closed.

5. The closure of the street affected by the event must not cause a significant hardship to pedestrian or vehicular traffic. Alternative routes must be available for public and emergency vehicles.

6. The applicant is responsible for obtaining and placing barricades for the street closure and for removing the barricades promptly after the event is concluded.

7. The applicant must, promptly after the conclusion of the event, clean the right-of-way to its condition prior to the street closure.

8. The applicant must allow city personnel, emergency vehicles and police officers to lawfully enter the area. Orders or directions given by police or fire officials in the lawful discharge of their duties must be obeyed.

(c) The licensee and any drinking establishment serving, selling or distributing alcoholic liquor on city streets or sidewalks which have been closed pursuant to this section, as a temporary entertainment district, shall meet with the community event coordinator and city staff, no less than seven (7) days prior to the event, to review security plans and procedures to be utilized by the vendors relating to the sale and consumption of alcoholic liquor.”

SECTION 4. Section 3.30.050 of the Code of the City of Wichita, Kansas, pertaining to entertainment establishments, is hereby amended to read as follows:

“License--Exceptions. Nothing in this Chapter shall be construed to require any license for the following activities:

- (a) entertainment in private residences where no admission is charged,
- (b) entertainment conducted by any public or parochial school under direct faculty supervision or by any church when the dance or live entertainment is directly supervised by the church authorities;
- (c) entertainment conducted for service men or women or both, under the direct supervision of United Service Organizations;

(d) entertainment officially sanctioned by or conducted in a fraternity or sorority house, occupied by bona fide students of a school or college, in which the public is not invited,

(e) dance lessons, theatrical and performing arts lessons;

(f) any entertainment conducted by the City of Wichita;

(g) assemblies, music concerts, live performances or re-enactments which are sponsored by or which occur on the property of public or parochial schools, or City of Wichita public libraries.

(h) entertainment, dances, live performances, or other events for which a community event permit has been issued by the City of Wichita.

(i) the use of a radio, juke box, television or video games, which is incidental to the primary function of serving food.

(j) licensed motion picture theaters;

(k) book readings, book signings, poetry recitations and any other similar entertainment consisting of the spoken word, including plays.

(l) entertainment consisting of ambient or incidental music provided for the guests by musicians such as a piano player, harpist, strolling violinist, mariachi band or guitarist. If there is an admission charge required to observe such entertainment, it will not be considered incidental.

(m) pool hall, billiard hall or bowling alley that does not provide space for dancing.

(n) theaters where patrons sit in parallel rows of fixed seats or dinner theaters.

(o) entertainment conducted in connection with a regularly established recreation or theme park.”

SECTION 5. Section 3.30.070 of the Code of the City of Wichita, Kansas, is amended to read as follows:

“Hours of operation. (a) It is unlawful for any licensee, owner, manager, or responsible person of a teen club to permit or allow entertainment between the hours of midnight and noon. No person, except an employee, shall be on the licensed premises of a teen club and the premises shall be closed between the hours of 12:30 a.m. and 7:00 a.m.

(b) It shall be unlawful for any licensee, owner, manager or responsible party of an entertainment establishment to permit or allow entertainment between the hours of two a.m. and noon. No person, except an employee, shall be on the licensed premises of an entertainment establishment and the premises shall be closed between the hours of 2:30 a.m. and 7:00 a.m.”

(c) For the purposes of this section, employee shall be defined as an individual who is employed by, works on or upon the licensed premises and receives financial compensation from the licensee.

SECTION 6. Section 3.30.080 of the Code of the City of Wichita, Kansas, relating to entertainment establishments is hereby amended to read as follows:

Application--Contents. (a) Before any license is granted or issued for a teen club or entertainment establishment, an application shall be filed with the City Treasurer, setting forth the following facts:

(1) The name, address, social security number, date of birth of the applicant and telephone number where the applicant can be reached between the hours of eight a.m. and five p.m.;

(2) Location of the teen club or entertainment establishment;

(3) Date for which the license is desired;

(4) Hours and days the teen club or entertainment establishment is to be open and closed;

(5) A statement as to whether or not cereal malt beverages or alcoholic liquor will be sold to patrons at the location of the entertainment establishment;

(6) A statement that the applicant is familiar with the conditions imposed by the terms of this Chapter.

(7) Maximum occupant load of the building, facility or area;

(8) A description of the nature of entertainment to be provided.

(b) In addition the applicant must furnish:

(1) The names and addresses of the owner of the premises which such establishment is located.

(2) The manager or operator and, if a corporation or partnership, all the names and addresses of the officers of such corporation or partnership and any individual who owns twenty-five or more percent of the stock of such corporation. If the license is to be held by a corporation, the resident agent and registered office of said corporation;

(3) The name, address, social security number, and date of birth of the applicant, owner, manager and other responsible person of the establishment. If a corporation, all the names, addresses, social security numbers and date of birth of the officers, managers or directors of such corporation and any individual who owns twenty-five or more percent of the stock of such corporation. If the license is to be held by a corporation, the resident agent and registered office of said corporation. If the applicant is a partnership, all the names, addresses, social security numbers, and date of birth of all partners of the partnership.

(4) A plan to insure that adequate traffic control, crowd protection and security will be maintained and that ages of patrons admitted to the establishment will be maintained;

(5) An emergency management plan, consisting of, but not limited to: fire evacuation, storm shelter provisions, patron crowd control, and emergency access for police, fire and ambulance;

(6) The name of the private security agency, if any, to be employed to provide security for the club or entertainment establishment;

(7) Detailed plans and drawing of the teen club or entertainment establishment and adjoining areas indicating the dance floor, the waiting area for persons seeking admission, the parking areas, all restrooms, coat rooms, game rooms and all other spaces accessible by patrons and all interior and exterior doors and windows, and all sources of exterior lighting.

(8) A statement as to whether the applicant has ever had any license denied, revoked or suspended by the City of Wichita or the State of Kansas or any other governmental entity, the reason therefor and the business activity or occupation of the individual subsequent to such suspension, revocation or denial.

(9) A statement that the applicant consents and agrees that any member of the Police Department or Fire Department as well as other code enforcement or health officers of the City may, at any time, enter and inspect any part of such premises.

(c) A license shall be denied if one or more of the following conditions exist:

(1) Any applicant, owner, establishment manager, officer, manager or director of a corporate applicant, any person owning more than twenty five percent or more of the stock of a corporate applicant, or any partner of a partnership applicant of the teen club or entertainment establishment has, within the preceding ten years, been convicted of or placed on diversion for a:

a. felony; or

b. for any conviction or diversion of a misdemeanor

within the last three years involving:

i. laws pertaining to any controlled substance(s) prohibited by the Uniform Controlled

Substance Act, K.S.A. 65-4101, et seq. and amendments thereto;

ii. laws pertaining to alcohol or cereal malt beverage;

iii. prostitution;

iv. public indecency;

v. a sex crime or other person crime as defined by Chapter 21 of the Kansas Statutes Annotated;

vi. any crime of violence or physical force; or

vii. any weapons charge.

viii. violations of this chapter, or Sections 3.08.030 or Chapter 3.28 of the Code of the City.

(2) An applicant is less than twenty-one (21) years of age.

(3) The premises do not comply with the health, housing, fire and zoning codes of the City of Wichita.

(4) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process.

(5) The application is incomplete or if it contains any material misrepresentation;

(6) The application does not propose measures for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security, the monitoring of the ages of patrons or an emergency management plan.

(d) In order to prohibit an entertainment establishment from constituting a 'Night Club in the City', as defined by the Wichita- Sedgwick County Unified Zoning Code, conditions relating to the type of entertainment allowed at such establishment may be placed upon a license by the Office of Central Inspection.

(e) The application is filed with, and the license fee is paid to, the City Treasurer. The license will not be issued until the application has been reviewed and approved by the Chief of Police, the Office of Central Inspection and the Fire Chief."

SECTION 7. Section 3.30.180 of the Code of the City of Wichita, Kansas, is created to read as follows:

"Distance Requirements. An entertainment establishment license does not permit and shall not be issued to any person for the operation of an entertainment establishment if such establishment:

A. is licensed to sell alcoholic liquor or cereal malt beverage or if alcoholic liquor or cereal malt beverage will be offered, consumed or served on the premises; and

B. the location is within 300 feet of any church, public park, public or parochial school or residential zoning district.

The distance is to be measured from the nearest property line of the residential zoning district, church or public or parochial school to the nearest property line of the premises on which the establishment is located or to any parking lot designated to be used by the patrons of such establishment.

Renewal of entertainment establishment licenses, otherwise subject to this subsection, may be made for all establishments presently licensed and located within three hundred feet of any church, public park, public or parochial school, residential or zoning district, so long as the premises are used or held for use as a place in which a entertainment establishment license and one of the following licenses is held:

- (1) Class A private club;
- (2) Class B private club;
- (3) Drinking establishment; or

(4) A license to sell cereal malt beverages for consumption on the premises; provided, however, that should such an establishment cease to be used for such purposes for a period of ninety days or more, then and in that event, no new entertainment establishment license shall be issued for the establishment. Periods of time during which such establishment is being remodeled or is being repaired because of damage caused by fire or natural disasters such as floods or wind-storms, shall not be included in computing the above ninety-day period; provided, however, that any remodeling or repair must be commenced within ninety days after closure of any given structure and completed within a period not to exceed six months. Additionally, the Special Investigations Bureau of the Wichita Police Department shall be notified within thirty days of closing of such establishment for remodeling or repair, such notice to state the date of commencement and completion of remodeling or repair.

The distance requirements in this section shall not be applicable to property which has received the appropriate zoning approval for such use, as required by the Wichita-Sedgwick County Unified Zoning Code.”

SECTION 8. Section 3.30.190 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Penalties. (a) Any person who violates any of the provisions of this chapter within the corporate limits of the City, shall be deemed guilty of a misdemeanor and upon conviction hereof shall be punished by the following fines:

(1) Upon a first conviction, not more than two thousand five hundred dollars;

(2) Upon a second conviction, not less than two hundred fifty dollars nor more than two thousand five hundred dollars;

(3) Upon a third conviction, not less than five hundred dollars nor more than two thousand five hundred dollars;

(4) Upon a fourth or subsequent conviction, not less than one thousand dollars nor more than two thousand five hundred dollars;

(b) The imposition of the fines established in subparagraphs (a)(2) through (4) herein shall be mandatory and the court shall not waive, remit, suspend, parole or otherwise excuse the payment thereof except that the court may order that the perform community service specified by the court but such an order shall be entered only after the court has required the defendant to file an affidavit of such defendant’s financial condition as required by Section 1.04.210(e) and amendments thereto, and the court has

found from the information contained in the affidavit that the defendant is financially unable to pay the fines imposed herein.

(c) For the purposes of determining whether a conviction is a first or subsequent conviction for sentencing, conviction includes being convicted of a violation of this chapter. It is irrelevant whether an offense occurred before or after conviction for a previous offense or whether the offense occurred at or upon the same licensed premises.”

SECTION 9. Section 4.04.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Consumption in public places prohibited. (a) (1) Except as otherwise provided herein, it is unlawful for any person within the corporate limits of the city to drink or consume alcoholic liquor upon the public streets, alleys, roads or highways, or inside vehicles while upon the public streets, alleys, roads or highways.

(2) Alcoholic liquor may be sold and/or consumed at a special event as part of a temporary entertainment district held on public streets, alleys, roads, sidewalks or highways, provided that such streets, alleys, roads, sidewalks or highways have been closed to motor vehicle traffic by the City Council and when a temporary permit has been issued pursuant to K.S.A. 41-2645 and amendments thereto, for such event and the consumption of such alcoholic liquor at such event has been approved by the City Council pursuant to Section 3.11.065.

(3) No alcoholic liquor may be consumed inside or on motor vehicles while on public streets, alleys, roads or highways at such special event or within a temporary entertainment district.

(4) No person shall remove any alcoholic liquor from inside the boundaries of a special event or temporary entertainment district as designated by the City Council pursuant to Section 3.11.065. The boundaries of such event or temporary entertainment district shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such event.

(5) No person shall possess or consume alcoholic liquor inside the premises, licensed as a special event or temporary entertainment district, that was not sold or provided by the licensee holding the temporary permit for such special event or an adjacent drinking establishment which has extended its licensed premises into and made a part of the licensed premises for such special event pursuant to K.S.A. 41-2645(e)(2) and amendments thereto.

(6) It shall be unlawful for any person to distribute, sell or allow the consumption of any alcoholic liquor on the streets or sidewalks within any special event or temporary entertainment district without obtaining the approval of the City Council and any and all necessary state and local permits for the sale or consumption of such alcoholic liquor.

(7) Each licensee selling alcoholic liquor for consumption on the premises of a special event or temporary entertainment district for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by this title and by the Club and Drinking Establishment Act of the State of Kansas pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated;

(2) Upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments takes place;

(3) In a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of such alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto take place;

(4) In private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments takes place; or

(5) On the premises of a microbrewery or farm winery, if authorized by this title and by K.S.A. 41-308a or Section 138, of House Substitute for Substitute Senate Bill 141 and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes incidental thereto.

(2) In any state-owned or operated building or structure and on the surrounding premises, which is furnished to and occupied by any state officer or employee as residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by the Wichita Airport Authority.

(d) On property which has been specifically exempted by ordinance the title of which is vested in the City of Wichita.

(e) Any property located within the corporate limits of the City of Wichita that is under the control of the Kansas State Board of Regents and the

Kansas State Board of Regents has exempted said property from the provisions of K.S.A. 41-719(c) and amendments thereto and said property is not used for classroom instruction.

(f) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(g) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than fifty dollars nor more than two hundred dollars or by imprisonment for not more than six months, or both.”

SECTION 10. Section 4.04.045 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Exemptions. (a) The city, by virtue of the authority contained in K.S.A. 41-719, exempts the following properties from any prohibition against consumption of alcoholic liquor on public property contained in K.S.A. 41-719, and in Sections 4.04.040, 4.16.020 and 4.16.030 of this Code: CityArts, the education building of the Wichita Area treatment Education and Remediation (WATER) Center, Sports Hall of Fame, Lionel Alford Regional Library, Wichita-Sedgwick County Historical Museum, Century II, the Wichita Mid-Continent Airport, Colonel James Jabara Airport, Cowtown, the Wichita Art Museum, Mid-America All-Indian Center, Lawrence-Dumont Stadium, the Central Branch Wichita Public Library, the Kansas Aviation Museum (Historic Wichita Municipal Airport), Botanica -- the Wichita Gardens, the Hyatt Regency Wichita

Hotel and Conference Center, Exploration Place, the Ice Sports Center of Wichita, the Wichita Boathouse, the La Familia Senior Community Center, Inc. located at 841 W. 21st St. North.

(b) The city, by virtue of the authority contained in K.S.A. 41-719, exempts the following properties from any prohibition against consumption of alcoholic liquor on public property contained in K.S.A. 41-719, and in Sections 4.04.060, 4.16.020 and 4.16.030 of this Code during such times a community event or temporary entertainment district has been approved by the City Council and when a license for the sale of alcohol has been issued, if such license is necessary: the Old Town Farm and Art Market, Nomar International Market, the Old Town Cinema Plaza and the open area bounded on the north by the Hyatt Regency Hotel and Conference Center, on the south by Lewis Street, on the east by Wichita Street, and on the west by the Arkansas River.”

SECTION 11. Section 4.12.195 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Possession of open container on street prohibited. (a) It is unlawful for any person to have any cereal malt beverage in his possession upon any public street or public right-of-way except in the original and unopened container, or to consume any cereal malt beverage upon any public street or public right-of-way within the city.

(b) The provisions of subsection (a) shall not apply to the possession or consumption of cereal malt beverage on any city street closed for a special event or community event licensed pursuant to Chapter 3.11 of the Code of the

City of Wichita, where a written request for such consumption and possession and the special event are approved by city council.

(c) Any special event or community event which is licensed to allow the possession or consumption of cereal malt beverage shall comply with the provisions of Section 3.11.065 of the Code of the City of Wichita regarding the possession, consumption or sale of such cereal malt beverage.”

SECTION 12. Section 4.16.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Closing Hours. (a) No club or drinking establishment shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of two a.m. and nine a.m. on any day. At closing time:

- (1) The lights are to be fully illuminated;
- (2) The music, dancing or other live entertainment is to be stopped;
- (3) All alcoholic liquor is to be removed from all tables and no patron shall be in possession of any alcoholic liquor; and
- (4) Patrons are to be directed to vacate the premises.

No person other than employees of the establishment shall be allowed to remain on the licensed premises more than thirty minutes after closing time.

(b) No club or drinking establishment licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated shall be open to members and the public between the hours of two a.m. and nine a.m. on any day except that this

subsection shall not apply to restaurants or hotels licensed as drinking establishments.

(c) No caterer shall allow the serving, mixing or consumption of alcoholic liquor between the hours of two a.m. and six a.m. on any day at an event catered by such caterer.

(d) Subsections (a)(4) and (b) shall not apply to a billiard hall that is licensed as a drinking establishment during any sanctioned billiards tournament occurring on the premises thereof. Patrons and persons, other than employees, shall be allowed to remain on the premises at all times sanctioned tournament games are being played. All rules and regulations regarding serving, mixing, consumption or possession of alcoholic liquor must be observed between the hours of 2:00 a.m. and 9:00 a.m. during such sanctioned tournaments. Further, the licensee of such billiard hall must provide notice in writing at least twenty-four (24) hours in advance to the Wichita Police Department Special Investigations Bureau of his or her intent to hold such a tournament. Failure to notify the police as required, or remaining open in violation of this section under false pretenses or when no sanctioned pool tournament is being played shall be grounds for suspension or revocation of the establishment's license to sell alcoholic liquor pursuant to 4.16.095 or 4.16.090.

For the purpose of this subsection, 'billiard hall' shall mean a place of amusement whose chief purpose is providing the use of billiard or pool tables to the public for a fee."

SECTION 13. The originals of Sections 3.11.020, 3.11.065, 3.11.150, 3.30.050, 3.30.070, 3.30.080, 4.04.040, 4.04.045, 4.12.195 and 4.16.120 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 14. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 1st day of December, 2009.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law